

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 617

(SENATE AUTHORS: DRAZKOWSKI)

DATE
01/27/2025

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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to civil actions; awarding fees and expenses to a prevailing party if the
1.3 municipality's position was not substantially justified; proposing coding for new
1.4 law in Minnesota Statutes, chapter 465.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[465.131] FEES AND EXPENSES; CIVIL ACTIONS INVOLVING A**
1.7 **MUNICIPALITY.**

1.8 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
1.9 the meanings given.

1.10 (b) "Expenses" has the meaning given in section 15.471, subdivision 4.

1.11 (c) "Fees" means the reasonable attorney fees or reasonable fees charged by a person
1.12 not an attorney who is authorized by law to represent the party and may include reasonable
1.13 charges by the party or the party's employee or agent. The amount of fees must be based
1.14 upon prevailing market rates for the kind and quality of the services furnished, subject to
1.15 the limitation that an expert witness may not be compensated at a rate greater than the
1.16 highest rate of compensation for expert witnesses paid by the municipality.

1.17 (d) "Municipality" has the meaning given in section 466.01, subdivision 1.

1.18 (e) "Substantially justified" means that the municipality's position had a reasonable basis
1.19 in law and fact, based on the totality of the circumstances before and during the litigation.

1.20 Subd. 2. **Award of fees and expenses.** (a) Unless special circumstances make an award
1.21 unjust, a court shall award fees and other expenses to a prevailing party, other than a

2.1 municipality, in a civil action brought against or by the municipality if the prevailing party
2.2 shows that the position of the municipality was not substantially justified.

2.3 (b) The court may reduce the amount to be awarded under this section, or deny an award,
2.4 to the extent that the prevailing party during the proceedings engaged in conduct that unduly
2.5 and unreasonably protracted the final resolution of the matter in controversy.

2.6 Subd. 3. **Application.** A party seeking an award of fees and other expenses shall, within
2.7 30 days of final judgment in the action, submit to the court an application of fees and other
2.8 expenses which shows that the party is a prevailing party and is eligible to receive an award,
2.9 and the amount sought, including an itemized statement from any attorney or expert witness
2.10 representing or appearing on behalf of the party stating the actual time expended and the
2.11 rate at which fees and other expenses were computed. The party shall also allege that the
2.12 position of the municipality was not substantially justified.

2.13 Subd. 4. **Construction with other law; limitations.** (a) This section does not preclude
2.14 a party from recovering costs, disbursements, fees, and expenses under other applicable
2.15 law.

2.16 (b) This section does not apply to a tort action.